

HOUSE BILL 15

E1

EMERGENCY BILL

3lr3529

By: **Delegates Hough, Afzali, Cluster, Conaway, Fisher, George, Hogan, McDermott, Myers, Norman, Ready, Schulz, and Serafini**

Introduced and read first time: August 10, 2012

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Fourth Degree Sexual Offense – School Employees**

3 FOR the purpose of altering the definition of a “person in a position of authority” to
4 provide that the fourth degree sexual offense of a person in a position of
5 authority engaging in a sexual act or sexual contact with a certain minor
6 applies to certain school employees regardless of their employment status;
7 making this Act an emergency measure; and generally relating to fourth degree
8 sexual offenses.

9 BY repealing and reenacting, with amendments,
10 Article – Criminal Law
11 Section 3–308
12 Annotated Code of Maryland
13 (2012 Replacement Volume)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article – Criminal Law**

17 3–308.

18 (a) In this section, “person in a position of authority”:

19 (1) means a person who:

20 (i) is at least 21 years old;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) is employed [as a full-time permanent employee] by a public
2 or private preschool, elementary school, or secondary school; and

3 (iii) because of the person's position or occupation, exercises
4 supervision over a minor who attends the school; and

5 (2) includes a principal, vice principal, teacher, or school counselor at
6 a public or private preschool, elementary school, or secondary school.

7 (b) A person may not engage in:

8 (1) sexual contact with another without the consent of the other;

9 (2) except as provided in § 3-307(a)(4) of this subtitle, a sexual act
10 with another if the victim is 14 or 15 years old, and the person performing the sexual
11 act is at least 4 years older than the victim; or

12 (3) except as provided in § 3-307(a)(5) of this subtitle, vaginal
13 intercourse with another if the victim is 14 or 15 years old, and the person performing
14 the act is at least 4 years older than the victim.

15 (c) (1) Except as provided in § 3-307(a)(4) of this subtitle or subsection
16 (b)(2) of this section, a person in a position of authority may not engage in a sexual act
17 or sexual contact with a minor who, at the time of the sexual act or sexual contact, is a
18 student enrolled at a school where the person in a position of authority is employed.

19 (2) Except as provided in § 3-307(a)(5) of this subtitle or subsection
20 (b)(3) of this section, a person in a position of authority may not engage in vaginal
21 intercourse with a minor who, at the time of the vaginal intercourse, is a student
22 enrolled at a school where the person in a position of authority is employed.

23 (d) (1) Except as provided in paragraph (2) of this subsection, a person
24 who violates this section is guilty of the misdemeanor of sexual offense in the fourth
25 degree and on conviction is subject to imprisonment not exceeding 1 year or a fine not
26 exceeding \$1,000 or both.

27 (2) (i) On conviction of a violation of this section, a person who has
28 been convicted on a prior occasion not arising from the same incident of a violation of
29 §§ 3-303 through 3-312 or § 3-315 of this subtitle or § 3-602 of this title is subject to
30 imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

31 (ii) If the State intends to proceed against a person under
32 subparagraph (i) of this paragraph, it shall comply with the procedures set forth in the
33 Maryland Rules for the indictment and trial of a subsequent offender.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
35 measure, is necessary for the immediate preservation of the public health or safety,

1 has been passed by a yea and nay vote supported by three-fifths of all the members
2 elected to each of the two Houses of the General Assembly, and shall take effect from
3 the date it is enacted.